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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/502,325	05/20/2005	Torben Dalgaard	7425114-9	3667
25570	7590	06/30/2006	EXAMINER	
ROBERTS, MLOTKOWSKI & HOBBS P. O. BOX 10064 MCLEAN, VA 22102-8064			MALLARI, PATRICIA C	
			ART UNIT	PAPER NUMBER
			3735	

DATE MAILED: 06/30/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/502,325

Applicant(s)

DALGAARD ET AL.

Examiner

Patricia C. Mallari

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 23 July 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-22,25 and 26 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-22,25 and 26 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 7/23/04.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

Specification

The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o). Correction of the following is required:

Claim 1 recites the limitation “means for measuring static pressure” on lines 203 of the claim. The specification lacks sufficient antecedent basis for this limitation and further fails to provide any structure or examples corresponding to the means for measuring static pressure.

Claim Objections

Claims 1, 3, 6, 7, 13, 14, 16, 19, and 20 are objected to because of the following informalities:

On line 5 of claim 1, “shell part” should be replaced with “shell parts”.

On line 6 of claim 1 “ a linear array of microphone elements is disposed on” should be replaced with “the microphone means comprises a linear array disposed on”.

On lines 1-2 of claim 3, “i n” should be replaced with “in”.

On lines 1-2 of claim 6, “characterized in that it comprises” should be replaced with “further comprising”.

On line 2 of claim 7, “the gap” should be replaced with “a gap”.

On line 1 of claim 13, “characterized in that the hinge” should be replaced with “further comprising a hinge that”, since the claim lacks sufficient antecedent basis for the limitation “the hinge”.

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On line 1 of 14, "claim 12" should be replaced with "claim 11", since claim 11 has sufficient antecedent basis for "the hinge part" and claim 12 does not.

On line 2 of claim 14, "hinge part" should be replaced with "hinge parts".

On line 2 of claim 16, "hinge part" should be replaced with "hinge parts".

On lines 1-2 of claim 19, " an inflatable cuff" should be replaced with "the constrictable sleeve or cuff", since claim 1, upon which claim 20 depends, contains the limitation "a constrictable sleeve or cuff" and it appears that the "inflatable cuff" in claim 20 refers to the same cuff.

On line 2 of claim 20, " an inflatable cuff" should be replaced with "the constrictable sleeve or cuff", since claim 1, upon which claim 20 depends, contains the limitation "a constrictable sleeve or cuff" and it appears that the "inflatable cuff" in claim 20 refers to the same cuff.

On line 2 of claim 20 "In that" should be replaced with "in that".

Appropriate correction is required.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-22, 25, and 26 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1 recites the limitation, "universal joint type support". It is unclear whether the applicants are claiming a universal joint, or merely a structure similar

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to a universal joint, for example, a hinge portion. For the purposes of this examination only, the examiner is assuming that a universal joint is intended by this limitation. In any case, the claim language should be amended to clarify the applicants' intent.

Claim 21 recites the limitation, "the universal joint is emulated by a foam pad." Claim 22 recites the limitation, "the universal joint is emulated by means of a separate air chamber fitted between the cuff and the microphone array." It is unclear what is meant by "emulated by" in these claims. The term "emulate" means "to strive to equal or excel, especially through imitation". In view of these limitations and the meaning of the term "emulate", it is further unclear whether the "universal joint" as claimed in claim 1, upon which claims 21 and 22 both depend, is or is not included as part of the invention. The applicants should amend the claim language to clarify their meaning. If the universal joint is not part of the invention of claims 21 and 22, then the claims cannot be written in dependent form as depending upon claim 1, since such dependent claims would be objected to under 37 CFR 1.75(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim. In this case, the applicants would be required to cancel the claims, or amend the claims to place the claims in proper dependent form, or rewrite the claim(s) in independent form.

Claim Rejections - 35 USC § 101

35 U.S.C. 101 reads as follows:

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Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 1-22, 25, and 26 rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. Claim 1 recites the limitations, "microphone means arranged in proximity to an artery" and "shell parts displaying a stiffness along the limb". Claim 5 recites, "earpieces carried by an auscultating physician". In each case, the human body (physician, for example), or part thereof is non-statutory subject matter and cannot be positively claimed. To overcome this rejection, for example, the first limitation should be replaced with "microphone means adapted to be arranged in proximity to an artery".

Allowable Subject Matter

Claims 1-22, 25, and 26 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 101 and/or 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

The following is a statement of reasons for the indication of allowable subject matter:

US Patent No. 5,031,630 to Hirano et al. teaches an apparatus for measuring blood pressure comprising a generally tubular constrictable sleeve or cuff 10 for a limb of a person, a source 16 for fluid pressure, means for measuring static pressure 36, and microphone means 18-28 adapted to be

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arranged in proximity to an artery comprising a linear array of microphone elements. The array is disposed in the cuff essentially perpendicular to a longitudinal axis of the cuff and near the lower end of the cuff (fig. 1; col. 3, lines 31-47; col. 4, lines 42-47; col. 7, lines 60-66 of Hirano). Hirano lacks two essentially concave shell parts or the microphone means being disposed on a universal joint type support.

US Patent No. 4,790,325 to Lee teaches an apparatus for measuring blood pressure comprising a generally tubular constrictable sleeve or cuff for a limb of a person 360, wherein the cuff is at least partly enclosed in two essentially concave shell parts displaying a stiffness along the limb, the shell parts being openable against a restoring force (figs. 6 & 7; col. 10, lines 4-45 of Lee). Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to use the cuff and shell structure of Lee as that of Hirano in order to make the blood pressure apparatus usable by a patient without an attendant, without training and with only the minimal collaboration by the patient (col. 8, lines 42-51 of Lee). However, the combination of Hirano in view of Lee lacks the array of microphone elements being disposed on a universal joint type support in one shell part, since the hinge 358 of Lee is not disclosed as a universal joint type support (or a support that forms a joint or coupling allowing parts of a machine not in line with each other limited freedom of movement in any direction while transmitting rotary motion) nor are the transducers of Lee disposed on the hinge portion.

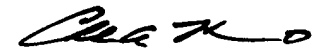
Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Patricia C. Mallari whose telephone number is (571) 272-4729. The examiner can normally be reached on Monday-Friday 10:00 am-6:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Charles Marmor, II can be reached on (571) 272-4730. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.


Patricia Mallari
Patent Examiner
Art Unit 3735


Charles A. Marmor, II
SPE, Art Unit 3735